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Decision File

Court Reinstates Intelligence Aide

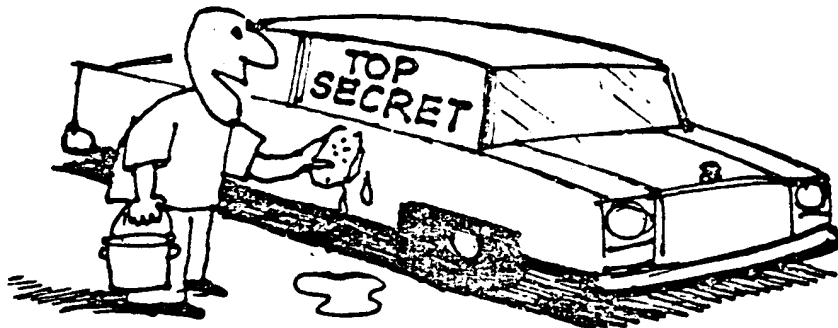
When the smoke cleared, the Army's case against one of its civilian intelligence specialists turned out to be hush-hush hocus-pocus, a court held. In the dictum of the Court of Appeals here, the evidence was hearsay and, at times, "bald and misleading."

It went like this: The Army, citing a wide range of security violations, revoked the Top Secret security clearance of Lukas E. Hoska 3d. Without a Top Secret badge, Mr. Hoska could not use his desk, so the Army dismissed him. He appealed, and the court reviewed the security violations:

The Car-Washing Incident. The Army charged that Mr. Hoska had permitted an unauthorized individual access to an "operational vehicle." The court found that a neighbor's sponging down of Mr. Hoska's car did not constitute a breach of security.

The Typewriter Repair Incident. The intelligence officer breached security by allowing an unauthorized repairman to work on an office typewriter. After noting that Mr. Hoska took reasonable precautions, the court ruled out any violation of security.

Posting of Classified Information. The "classified information" was a



clipping from a newspaper.

Incidents of Indiscreet Sexual Behavior. The Army said that the following incidents, by themselves, were sufficient to revoke the petitioner's security clearance: While Mr. Hoska and his wife were leading a Girl Scout trip through Germany, he purchased a beer for a minor, allowed a Girl Scout to read an illustrated advertising brochure on sauna baths and recited an "off-color" rhyme.

Without commenting on the Army's charge of "immoral and notoriously disgraceful conduct," the court ruled that the Army had not linked it to questions of Mr. Hoska's ability to protect classified information.

The Psychiatric Evaluation. The Army, alarmed by Mr. Hoska's foregoing behavior, ordered a psychiatric examination. The psychiatrist said that Mr. Hoska suffered from an undefined "obsessive-compulsive neurosis" and that he was "tense and guarded" and "did not quite understand the reality of our interview."

The court, noting the superficial quality of the evaluation, took a more sympathetic view. It said that the petitioner, who, with little explanation, had been ordered to travel 11 hours for an appointment with a psychiatrist and a brain scanning machine, had ample cause to be tense and guarded.

The court ordered the Army to reinstate Mr. Hoska with back pay "and such other relief as may be warranted."

Royce C. Lambert, an assistant United States Attorney representing the Army, said the court's decision was troubling. "The Army demonstrated that Mr. Hoska exercised poor judgement a sufficient number of times to warrant revoking his security clearance," Mr. Lambert said. "But the court," he added, "apparently believes that a secret has to be leaked or a regulation has to be violated before access to secret material is revoked."

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